

04-0588 S.K.T. v. Lowe's Issued: 05/17/05

S. K. T., Personal Representative of the Estate of R. K., asks the Utah Labor Commission to review Administrative Law Judge La Jeunesse's dismissal of the Estate's claim for payment of benefits allegedly due Randall K. prior to his death under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. § 63-46b-12 and Utah Code Ann. § 34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

On September 12, 2001, Randall K. filed an application to compel Lowe's and its insurance carrier, Specialty Risk Services (referred to jointly as "Lowe's" hereafter), to pay workers' compensation benefits for injuries allegedly suffered in a work-related accident at Lowe's on May 1, 2001. Mr. K. died on December 4, 2001, before his application was adjudicated by the Commission. Following Mr. K.'s death and at the request of his attorney, Judge La Jeunesse dismissed Mr. K.'s application.

Mr. K. was survived by his wife, Susan, and their two minor children. On September 17, 2002, Mrs. K. filed an application against Lowe's for workers' compensation dependants' benefits. In a decision issued February 20, 2004, Judge La Jeunesse found that Mr. K.'s work injury at Lowe's was the direct cause of his death and, on that basis, awarded dependents' benefits to Mrs. K. and her children.

On June 21, 2004, the K. Estate filed an application against Lowe's for the workers' compensation benefits Mr. K. should have been paid prior to his death. On August 18, 2004, Judge La Jeunesse dismissed this application on the grounds that Mr. K.'s right to the workers' compensation benefits in question did not survive his death.

The K. Estate now requests Commission review of Judge La Jeunesse's decision.

DISCUSSION AND CONCLUSION OF LAW

The relevant facts of this case are not in dispute and have been set forth above. The K. Estate asks the Commission to reverse Judge La Jeunesse's decision because it relies on appellate precedent that is no longer applicable.

During the 2003 legislative session, the Utah Legislature enacted § 34A-2-423 of the Utah Workers' Compensation Act. This provision applies in situations where an injured worker has filed a claim for workers' compensation benefits, but then dies before the claim is adjudicated. In such cases, § 34A-2-423 allows the deceased worker's personal representative to proceed with the claim.

There is no question that the circumstances of Mr. K.'s claim falls within the scope of § 423. However, Judge La Jeunesse dismissed the claim because Mr. K.'s work injury occurred prior to enactment of § 423. Judge La Jeunesse reasoned that § 423 created new substantive rights for

recovery of workers' compensation benefits and could not, therefore, be applied if the underlying injury had occurred prior to §423's effective date.

In considering this matter, the Commission notes the general rule that legislative enactments have only prospective effect. But there are exceptions. Remedial statutes are given retroactive effect unless they create, enlarge, diminish, or disturb vested rights. See 82 CJS "Statutes" § 417. Or, as stated by the Utah Supreme Court in Dept. of Social Services v. Higgs, 656 P.2d 998(1000 (Utah 1982): ". . . procedural statutes enacted subsequent to the initiation of a suit which do not enlarge, eliminate, or destroy vested or contractual rights apply not only to future actions, but also to accrued and pending actions as well. . . . (W)hen the purpose of an amendment is to clarify the meaning of an earlier enactment; the amendment may be applied retroactively in the pending actions." Furthermore, "(a)s a general rule, statutes relating to remedies and procedures are given a retrospective construction." 82 CJS "Statutes" §421.

When § 423 is considered in the context of the workers' compensation system, the Commission concludes that it is a remedial statute intended to "clarify the meaning of existing law" and that it "relates to remedies and procedures." In the context of this particular case, the statute merely allows the K. Estate to stand in Mr. K.'s shoes and obtain the benefits Mr. K. should have received while he was living. The Commission therefore concludes that § 423 does apply to Mr. K.'s claim and that the K. Estate may proceed to adjudicate that claim.

ORDER

The Commission grants the K. Estate's motion for review and sets aside Judge La Jeunesse's Order of August 18, 2004. The Commission remands this matter to Judge La Jeunesse for further proceedings to determine what benefits, if any, are due, and if so, the amount of such benefits.

Dated this 17th day of May, 2005 .

R. Lee Ellertson, Commissioner